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SUBJECT: CORRECTED TEXT - COMMERCIAL SATELLITE LICENSE
WAIVER REQUEST FOR JAPANESE MINISTRY OF DEFENSE

REF: 08 STATE 086921

Classified By: Classified By: ISN Acting DAS Eliot Kang
For reasons 1.4(b) and 1.4(d)

NOTE: The information in this cable is a correction of 08 STATE 086921 (DTG 131633Z AUG 08). Substance has not changed significantly. However, specific guidance is further clarified to reflect updated interagency concurrence. Additionally, this cable through its clarification addresses initial questions raised by the GOJ recipient with regard to the prior REFTEL. END NOTE

¶1. (U) This is an action message. The Department requests that the Embassy approach appropriate Government of Japan officials at the earliest opportunity to seek certain written assurances, as per paragraphs 4 - 7 below. This cable contains proprietary information; please protect accordingly.

¶2. (C/PROPIN) A U.S. firm, DigitalGlobe, requests that the U.S. Government modify the conditions of its commercial remote sensing satellite operating license. This modification would allow DigitalGlobe to directly downlink certain high-resolution satellite imagery from its WorldView-2 (WV-2) satellite to its Japanese Ministry of Defense (JMOD) customer. DigitalGlobe proposes to directly downlink panchromatic (PAN) satellite imagery with spatial resolutions less than 0.50 meters (m) ground sample distance (GSD) at nadir as well as multispectral (MS) imagery with spatial resolutions less than 2.0m GSD at nadir. The U.S. Government is prepared to approve this license modification if certain assurances are received from the Government of Japan, which include a provision that such data or products will be provided the same protections currently afforded to U.S. limited distribution or U.S.-origin classified information, and the data will not be provided to any entities other than those specifically identified, either inside or outside of the Government of Japan, without prior U.S. Governmental approval. The specific Government of Japan entities initially approved are: (1) intelligence related offices within the JMOD compound; (2) the National Security Agencies of the Government of Japan; and (3) intelligence related units in the Japanese Ground Self Defense Force, Air Self Defense Force, and Maritime Self Defense Force.

¶3. (C/PROPIN) DigitalGlobe is also requesting a waiver to allow the Director for Geospatial Imagery Intelligence (GII) within the Japanese Ministry of Defense to receive directly PAN satellite imagery with resolution of less than 0.50m GSD at nadir as well as MS imagery less than 2.0m GSD at nadir from WV-2 within 24 hours from the time the data was collected by the satellite. The U.S. Government is prepared to approve this waiver if certain assurances are received from the Government of Japan, which include a provision that the Government of Japan will provide the same protections

currently afforded to U.S. limited distribution or U.S.-origin classified information.

¶4. (C/PROPIN) ACTION: The Department requests that the Embassy approach appropriate Government of Japan (GOJ) officials at the earliest opportunity to seek written assurances regarding GOJ use and protection of this commercial high-resolution imagery (see Talking Points, paragraph 8 below). If approved, DigitalGlobe would be authorized to provide this high-resolution imagery to specific entities within the Japanese Ministry of Defense (JMOD) and would be authorized to provide imagery only to JMOD's GII directorate during the initial 24 hour period. Furthermore, this data will not be provided without prior explicit approval by the U.S Government to any entity other than the GII within 24 hours from the time the data was collected by the satellite.

¶5. (C/PROPIN) The Government of Japan may ask to modify the list of entities that could: a) receive imagery less than 0.50m GSD at nadir PAN or less than 2.0m MS GSD at nadir, or b) receive such imagery within 24 hours. This would be done on a case-by-case basis with the explicit approval of the U.S. Government.

¶6. (U) The U.S. commercial data provider of satellite imagery should be the point of contact when GOJ desires to acquire prior written consent from the USG, such as in the case of a requested modification to the list of approved recipient entities. The data provider in turn will contact the U.S. Department of Commerce National Oceanic and Atmospheric Administration (NOAA) for an amendment to their existing license, which would involve obtaining the necessary written consent.

¶7. (U) Please report response and provide feedback to the action officer in ISN - Miguel Green, phone: 202-647-3529, email: GreenMD@state.gov. The Department in Washington DC sincerely thanks Post for its flexibility and assistance in this matter.

Talking Points

¶8. (C/REL JAPAN) Begin Talking Points:

-- A U.S. commercial satellite remote sensing firm, DigitalGlobe, has asked the U.S. Government to approve provision of PAN data or products at less than 0.50m GSD at nadir or MS data or products less than 2.0m GSD at nadir for specific entities within the Japanese Government use, i.e., (1) intelligence related offices within the JMOD compound; (2) the National Security Agencies of the Government of Japan; and (3) intelligence related units in the Japanese Ground Self Defense Force, Air Self Defense Force, and Maritime Self Defense Force. They have also requested a waiver from the USG-licensed 24-hour data dissemination delay requirements on the delivery of this data to Geospatial Imagery Intelligence (GII).

--As a policy matter, the U.S. Government is willing to consider such requests for data and products provided to the Government of Japan if the U.S. Government receives end-use assurances (see paragraph 9 below). Therefore, if the Government of Japan would like to receive high-resolution imagery and would like the 24-hour data dissemination delay waived, then the U.S. Government requests written assurances from the Government of Japan regarding the Government of Japan's use and protection of this imagery.

-- These assurances would supersede those made by the Government of Japan on May 9, 2005, as represented by Ro Manabe, Director of Defense Intelligence Division, Bureau of Defense Policy, Japan Defense Agency. These assurances would cover any data and products (including imagery) licensed by

the U.S. Government; moreover, it ensures special protection of panchromatic data and products with resolutions of less than 0.50m GSD at nadir and multispectral data and products with resolutions of less than 2.0m GSD at nadir.

-- U.S. Government-approved entities referred to in the assurances below include those entities specifically stated in DigitalGlobe's waiver authorization. However, we have deliberately worded the assurances so that if additional authorizations are approved by the U.S. Government subsequent to the DigitalGlobe waivers, no new assurances will be needed to allow agencies of the Government of Japan identified in those authorizations for (1) access to the high-resolution data and products with resolutions less than 0.50m GSD at nadir PAN and 2.0m GSD at nadir MS, or (2) access to the high-resolution imagery, as defined in the assurances, during the initial 24 hours.

19. BEGIN TEXT OF ASSURANCES

The Government of Japan agrees and assures that:

High-resolution commercial remote sensing satellite imagery, defined as that data licensed for use by the U.S. Government and U.S. Government-approved entities, shall be provided only to U.S. Government approved Government of Japan entities, and will only be provided within 24 hours after the time of imaging to those Japanese Government entities that have received a USG waiver for the dissemination delay of such data. The Government of Japan shall provide high-resolution satellite imagery the same protections afforded U.S. Limited Distribution or U.S.-origin classified information. Use of high-resolution imagery and data products shall be only with prior written consent of the U.S. Government.

High-resolution commercial remote sensing satellite panchromatic (PAN) data with resolutions less than 0.50 meter (m) ground sample distance (GSD) at nadir or multispectral (MS) data with resolutions less than 2.0m GSD at nadir, licensed for use by the U.S. Government and U.S. Government-approved entities, shall be used only by the entities within the Government of Japan explicitly approved by the U.S. Government.

In the event that the U.S. Government is concerned that imagery and/or imagery products have been used in contravention of these assurances, the Government of Japan shall consult with the USG concerning its use of imagery and/or imagery products.

The Government of Japan is fully cognizant of the U.S. Government's concerns regarding the proliferation of timely, high-resolution commercial imagery. The Government of Japan recognizes that the provision of this imagery is provided in accordance with U.S. law, regulations, and policies.

END TEXT OF ASSURANCES
RICE